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13 PATAGONIA, INC.

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15 **UNITED STATES DISTRICT COURT**
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17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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19 **WESTERN DIVISION – LOS ANGELES**

20 PATAGONIA, INC.,

21 Plaintiff,

22 v.

23 APRIL FREY,

24 Defendant.

Case No. 2:18-cv-03868 FMO (RAOx)

**FINAL JUDGMENT AND
PERMANENT INJUNCTION AS
TO APRIL FREY**

25 Plaintiff Patagonia, Inc. (“Patagonia”) has filed a Complaint alleging
26 counterfeiting, trademark infringement, unfair competition, and copyright
27 infringement under federal law against co-defendant April Frey. Ms. Frey has
28 imported, promoted, distributed, offered, and sold apparel products, bearing one or
more identical or substantially indistinguishable imitations of Patagonia’s federally
registered marks (the “Counterfeit Products”) using social media, including
Facebook user accounts or Facebook Groups. Ms. Frey consents to entry of
judgment and permanent injunction to resolve this matter.



The Court now enters final judgment based upon the following undisputed
facts. Each party has waived the right to appeal from this final judgment and each
party will bear its own fees and costs in connection with this action.



I. FACTS AND CONCLUSIONS

A. This Court has subject matter jurisdiction over this lawsuit and personal jurisdiction over Ms. Frey. Venue is proper in this Court.

B. Patagonia owns numerous registrations for the PATAGONIA trademark, and for its distinctive logo depicting the Mt. Fitz Roy skyline (the “Fitz Roy Design”), for a wide ranging assortment of products. Among these are the following U.S. trademark registrations:

Trademark	Reg. No. / Reg. Date	Goods	Date of First Use
PATAGONIA	1189402/ Feb. 9, 1982	Men’s and Women’s Clothing-Namely, Sweaters, Rugby Shirts, Walking Shorts, Trousers, Jackets, Mittens, Hoods and Rainwear.	08/1974
	1294523/ Sept. 11, 1984	Men’s, Women’s and Children’s Clothing-Namely, Jackets, Pants, Vests, Gloves, Pullovers, Cardigans, Socks, Sweaters, Underwear, Shirts, Shorts, Skirts and Belts	08/1974- 1981
	1775623/ June 8, 1993	Luggage back packs, and all-purpose sports bags	08/1988
PATAGONIA	1811334/ Dec. 14, 1993	Luggage, back packs, fanny packs and all-purpose sport bags, footwear, ski bags and ski gloves	08/1990
PATAGONIA	2260188/ July 13, 1999	Computerized on-line ordering activities in the field of clothing and accessories; Providing information in the field of technical clothing and accessories for use in	10/1995

Trademark	Reg. No. / Reg. Date	Goods	Date of First Use
		recreational, sporting and leisure activities; providing information in the field of existing and evolving environmental issues	
PATAGONIA.COM	2392685/ Oct. 10, 2000	On-line retail store and mail order services featur- ing technical clothing, footwear, and accessories; Computer services in the nature of on-line informa- tion related to the environ- ment and clothing	10/1995
PATAGONIA	2662619/ Dec. 17, 2002	Retail store services featuring clothing, footwear, luggage and a wide variety of sporting goods and accessories	06/1986

These registrations for the PATAGONIA mark and logos are in full force and effect. The registrations have become incontestable under 15 U.S.C. § 1065. Collectively, these marks, Patagonia's other registered trademarks, and its common law marks are referred to as the "PATAGONIA trademarks." A color image of the Fitz Roy Design follows:



C. Ms. Frey imported, promoted, distributed, offered, and sold Counterfeit Products bearing reproductions of the PATAGONIA trademarks.

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II. PERMANENT INJUNCTION AND AWARD

It is hereby ordered and adjudged as follows:

A. Commencing as of the “So Ordered” date of this Final Judgment and Permanent Injunction, Ms. Frey, her agents, employees, attorneys, successors, assigns, affiliates, joint ventures, and any person(s) in active concert or participation with her, and/or any person(s) acting for, with, by, through, or under her control who receive actual notice of this Order, are hereby permanently enjoined and restrained, anywhere in the world, directly or indirectly, from doing, authorizing or procuring any persons to do any of the following:

1. Manufacturing, producing, sourcing, importing, selling, offering for sale, distributing, advertising, or promoting any goods or services that bear reproductions of the PATAGONIA Trademarks;

2. Manufacturing, producing, sourcing, importing, selling, offering for sale, distributing, advertising, or promoting any goods or services that display any words or symbols that so resemble the PATAGONIA trademarks as to be likely to cause confusion, mistake, or deception, on or in connection with any product that is not authorized by or for Patagonia;

3. Using any word, term, name, symbol, device, or combination thereof that causes or is likely to cause confusion, mistake, or deception as to the affiliation or association of Ms. Frey or her products with Patagonia or as to the origin of Ms. Frey’s goods, or any false designation of origin, false or misleading description or representation of fact, or any false or misleading advertising;

4. Further infringing the rights of Patagonia in and to its PATAGONIA trademarks, or otherwise damaging Patagonia’s goodwill or business reputation;

5. Further infringing Patagonia’s copyright rights, including its rights in the Fitz Roy Design, or otherwise infringing any of Patagonia’s rights under the Copyright Act and any other source of federal or state law;



1 6. Otherwise competing unfairly with Patagonia in any manner; and

2 7. Assisting, aiding or abetting any person or entity engaging in or
3 performing any act prohibited by this paragraph.

4 B. This is a final judgment as to all claims asserted against Ms. Frey
5 related to the Counterfeit Products, sold prior to the date of entry of this Final
6 Judgment and Permanent Injunction. Both parties shall bear their own costs.

7 C. If Ms. Frey is found to be in contempt of this injunction by a court of
8 law, she agrees that she will pay to Patagonia a liquidated penalty in an amount no
9 less than \$15,000.00 as liquidated damages, plus any other non-duplicative penalties
10 or damages arising from the contempt.

11 D. If Patagonia commences an action for enforcement of this Judgment,
12 the prevailing party shall be awarded reasonable attorneys' fees and costs from the
13 other party for both the action enforcing this Judgment and the underlying litigation.

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15 Dated: August 29, 2018

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/s/

Hon. Fernando M. Olguin
United States District Judge

